

THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,)
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES)
FOR THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

No. 4:05-CV-00329-TCK-SAJ

TYSON FOODS, INC., et al,)

Defendants.)

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VOLUME I VIDEOTAPED DEPOSITION OF JOHN
PATRICK CONNOLLY, produced as a witness on behalf of
the State, in the above styled and numbered cause,
taken on the 8th day of April, 2009, in the City of
Tulsa, County of Tulsa, State of Oklahoma, before me,
Marlene Percefull, Certified Shorthand Reporter, duly
certified under and by virtue of the laws of the State
of Oklahoma.

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<p>1 sources entering the water body so it would be 1:54PM</p> <p>2 measurements of what is entering the Illinois River or</p> <p>3 what is entering Lake Tenkiller or what is leaving Lake</p> <p>4 Tenkiller.</p> <p>5 Q Okay. 1:54PM</p> <p>6 A That's the type of mass balance that I've done and</p> <p>7 would use to try to evaluate potential sources.</p> <p>8 Q Okay. Have you ever seen mass balances performed</p> <p>9 on environmental systems when looking at sources of a</p> <p>10 constituent into the watershed? 1:55PM</p> <p>11 A Yes, I have.</p> <p>12 Q Okay. They've been used to identify sources of</p> <p>13 constituents in water of that watershed?</p> <p>14 A I don't think that's a valid use of that type of</p> <p>15 mass balance. 1:55PM</p> <p>16 Q You've never seen published papers that have used</p> <p>17 mass balance in that regard?</p> <p>18 A I've not paid a whole lot of attention to that</p> <p>19 because I find that information, in and of itself, not</p> <p>20 all that helpful. 1:55PM</p> <p>21 Q Why not?</p> <p>22 A Because what really matters is the availability of</p> <p>23 phosphorus and not simply whether phosphorus comes into</p> <p>24 a watershed or not. This, to give you an analogy,</p> <p>25 there's a lot of -- there's a lot of gold that comes 1:56PM</p> <p style="text-align: center;">146</p>	<p>1 MR. ELROD: Yeah. 1:57PM</p> <p>2 MR. PAGE: Let me try it again. Thank you.</p> <p>3 MR. ELROD: You're welcome.</p> <p>4 MR. PAGE: Any constructive objections are</p> <p>5 always welcome. 1:57PM</p> <p>6 Q Is it your opinion, sir, that if there's 354,000</p> <p>7 tons of poultry waste generated in the IRW and that's</p> <p>8 spread out on the land, that very little of that</p> <p>9 phosphorus would be traveling into the rivers and</p> <p>10 streams? 1:57PM</p> <p>11 MR. TODD: Object to the form.</p> <p>12 A What I'm saying is that that information tells me</p> <p>13 nothing about phosphorus getting into the water. It</p> <p>14 tells me that phosphorus has come into the watershed,</p> <p>15 yes, phosphorus is being applied on the land, but 1:58PM</p> <p>16 without a lot more work, it hasn't told me anything</p> <p>17 about whether that phosphorus -- or how much of that</p> <p>18 phosphorus gets into the waters.</p> <p>19 Q In your mind, do you conceive of these pastures</p> <p>20 where the phosphorus -- the litter is being applied is 1:58PM</p> <p>21 like little Fort Knoxes that keeps all the phosphorus</p> <p>22 contained right in that field?</p> <p>23 MR. TODD: Object to form.</p> <p>24 A No.</p> <p>25 Q Okay. Are you aware of any land that is not paved 1:58PM</p> <p style="text-align: center;">148</p>
<p>1 into Fort Knox, does that run off so that people should 1:56PM</p> <p>2 be panning for gold outside of Fort Knox? Well, that</p> <p>3 depends on what happens to the gold that went into Fort</p> <p>4 Knox and you wouldn't want to spend your time panning</p> <p>5 for gold unless you knew that that gold was available. 1:56PM</p> <p>6 Q Well, let's look at maybe a different analogy that</p> <p>7 may be more, perhaps, realistic to what's going on in</p> <p>8 the IRW. If phosphorus is imported in poultry feed and</p> <p>9 then some portion of that phosphorus passes through the</p> <p>10 poultry and gets into the waste, and that waste then is 1:56PM</p> <p>11 put out on the ground it's susceptible to the elements,</p> <p>12 would that be -- a mass balance of that type be helpful</p> <p>13 in determining whether or not phosphorus is entering</p> <p>14 the watershed water bodies?</p> <p>15 A It would be helpful in understanding whether 1:56PM</p> <p>16 phosphorus was entering the watershed. It would not be</p> <p>17 all that helpful about whether phosphorus is entering</p> <p>18 the water bodies.</p> <p>19 Q So you don't think it's reasonable to conclude</p> <p>20 that there's 354,000 tons of poultry waste put on the 1:57PM</p> <p>21 water, that some fair proportion of that is carrying</p> <p>22 phosphorus to the water bodies in the watershed?</p> <p>23 MR. TODD: Object to form.</p> <p>24 MR. ELROD: You said to the water bodies.</p> <p>25 MR. PAGE: Did I? 1:57PM</p> <p style="text-align: center;">147</p>	<p>1 or concrete where water would not run off in the IRW? 1:58PM</p> <p>2 A Run off as surface runoff?</p> <p>3 Q Yeah.</p> <p>4 A That is a complex question because whether or not</p> <p>5 you generated runoff depends on a whole number of 1:58PM</p> <p>6 factors and you may, in fact, not generate any runoff</p> <p>7 under certain conditions.</p> <p>8 Q Yeah, but I mean I'm asking you: Can you identify</p> <p>9 any land in the IRW where there would -- under no</p> <p>10 circumstance would there ever be runoff? 1:59PM</p> <p>11 A No.</p> <p>12 Q That isn't reasonable, is it?</p> <p>13 A Well, it's -- I would characterize it as unlikely.</p> <p>14 I don't know whether there's a little bowl of land 1:59PM</p> <p>15 where stuff never runs off out of that bowl.</p> <p>16 Q What about for infiltration? Are you aware of any</p> <p>17 land in the IRW other than where there's been concrete</p> <p>18 or man made asphalts to put onto it where there</p> <p>19 wouldn't be infiltration?</p> <p>20 A If it's a soil environment there would be 1:59PM</p> <p>21 infiltration.</p> <p>22 Q Do you have any understanding on how important</p> <p>23 non-point source flow is in rivers and streams in the</p> <p>24 IRW? That is, how much does infiltrating water add to</p> <p>25 the base flows of the IRW? 2:00PM</p> <p style="text-align: center;">149</p>

38 (Pages 146 to 149)

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